IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

WEDNESDAY, THE 4TH JULY 2007 / 13TH ASHADHA 1929

OP.No. 39592 of 2002(L)

PETITIONER:

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1. DEVAYANI ODATH W/O. C.G.GOPALAKRISHNAN
   ODATH HOUSE, PERINGODE P.O., PALAKKAD DIST.-673535

BY ADV. SRI.K.RAMAKUMAR

RESPONDENTS:

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1. THE UNION OF INDIA, REPRESENTED BY ITS
   SECRETARY, MINISTRY OF HUMAN RESOURCE DEVELOPMENT
   DEPARTMENT, SASTHRI BHAVAN, NEW DELHI-110 001

2. THE DIRECTOR, RASHTRIYA SANSKRIT
   SANSTHAN 56-57, INSTITUTIONAL AREA, JANAKPURI,
   NEW DELHI 110 058

3. THE CHAIRMAN, CALICUT ADARSH SANSKRIT
   VIDYAPEEDA, BALUSSERY, CALICUT.

4. THE PRINCIPAL, CALICUT ADARSH SANSKRIT
   VIDYAPEEDA, BALUSSERY, CALICUT.

R1, R2 BY ADV. SRI.P.K.RAMKUMAR, ADDL.CGSC
SRI.JAYAPRADEEP. V., ADDL.CGSC
R4 SRI.T.K.MARTHANDAN UNNITHAN
SRI.V.JAYAKUMAR
SRI.K.P.UNNIKRISHNAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 04/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP NO.66492/02 & I.A.NO.7008/05 IN OP NO.39592 OF 2002 L

//DISMISSED//

04.07.2007. SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE.

APPENDIX

PETIITONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE ORDER DATED 27.7.88 ISSUED BY R3.

EXT.P2: TRUE COPY OF THE JUDGMENT DATED 27.2.92 IN OP NO.10078/88.

EXT.P3: TRUE COPY OF THE NOTICE DTD.21.4.98 RECEIVED BY THE PETITIONER.

EXT.P4: TRUE COPY OF THE SCREENING COMMITTEE REPORT DTD.1.9.1980.

EXT.P5: TRUE COPY OF THE REPRESENTATION DTD.2.3.2002 SUBMITTED BY THE PETITIONER BEFORE R2.

EXT.P6: TRUE COPY OF THE PROCEEDINGS OF THE MEETING (MANAGING COMMITTEE) HELD ON 4.3.1997.

EXT.P7: TRUE COPY OF THE COMMMUNICATION DATED 30.10.1996 ADDRESSED TO DR.K.P.A.MENON BY THE RASHTRIYA SANSKRIT SANSTHAN.

EXT.P8: TRUE COPY OF LTHE COMMUNICATION DATED 2.3.1998 ADDRESSED TO THE PRINCIPAL, CALICUT ADARSH SANSKRIT VIDYAPEETHA, BY the RASHTRIYA SANSKRIT SANSTHAN.

EXT.P9: TRUE COPY OF THE LETTER DTD.8.9.1980 ADDRESSED TO THE PRESIDENT, AMARVANI SANSKRIT VIDYALAYAM, BY THE MINISTRY OF EDUCATION AND CULTURE.

EXT.P10: TRUE COPY OF THE CERTIFICATE DATED 12.11.1981 ISSUED BY THE PRINCIPAL, CALICUT ADARSHA SANSKRIT VIDYAPEETHA.

EXT.P11: TRUE COPY OF THE SERVICE CERTIFICATE DATED 11.8.80 ISSUED BY THE PRINCIPAL, AMARAVANI VIDYANILAYAM.

EXT.P12: TRUE COPY OF THE ORDER NO.CAS/M/C/2/85 DATED 29.7.85 ISSUED TO THE PETITIONER BY THE CHAIRMAN, C.A.S. VIDYAPEETHA.

EXT.P13: TRUE COPY OF THE LETTER DATED 27.3.97 ADDRESSED TO DR.N.P.UNNI, CHAIRMAN, MANAGING COMMITTEE, CASV.

EXT.P14: TRUE COPY OF THE MINUTES OF THE MANAGING COMMITTEE HELD ON 2.2.01 BY THE C.A.S.V.

EXT.P15: TRUE COPY OF THE ORDER DATED 23.2.2000 IN C.M.P.NO.9593 OF 2000 IN O.P.NO.5793/00 -M.

EXT.P16: TRUE COPY OF THE NOTICE DATED 28.8.1998 ISSUED FROM KOZHIKODE COLLECTOR'S OFFICE TO THE CONCERNED TEACHRS.

EXT.P17: TRUE COPY OF THE NOTIFICATION DTD.24.4.2005 APPEARED IN THE MALAYALA MANORAMA DAILY DTD.7.5.2005.

RESPONDENT'S EXHIBITS:

EXT.R3(A): TRUE COPY OF THE DECISION AS PER AGENDA NO.37.

EXT.R3(B): TRUE COPY OF THE DECISION OF THE MANAGEMENT 16.2.2002.

EXT.R1(A): TRUE COPY OF TH SCHEME FOR FINANCIAL ASSISTANCE.

EXT.R4(1): TRUE COPY OF THE LETTER DATED 3.10.1980 ISSUED FROM THE MINISTRY OF EDUCAITON & CULTURE, GOVERNMETN OF INDIA ADDRESSED TO THE CHAIRMAN, AMARAVANI SANSKRIT VIDYA NILAYAM, BALUSSERI.

EXT.R4(2): TRUE COPY OF LETTER DATED 9.8.1982 ISSUED FROM MINISTRY OF EDUCATION GOVERNMENT OF INDIA ADDRESSED TO THE THEN CHAIRLMAN OF THE MANAGING COMMITTEE.

EXT.R4(3): TRUE COPY OF COMMON JUDGMENT DATED 7.4.1988 PASSED BY THE DIVISION BENCH OF THIS HON'BLE COURT IN WRIT APPEAL LNOS.622/1982 AND 568/1982.

EXT.R4(4): TRUE COPY OF PROCEEDINGS DATED 22.7.1988 PASSED BY THE CHAIRMAN, CALICUT ADARSHA SANSKRIT VIDYAPEETHA, BALUSSERI.

EXT.R4(5): TRUE COPY OF LEAVE APPLICATION SUBMITTED BY the PETITIOENR.

EXT.R4(6): TRUE COPY OF EXPLANATION DATED 29.7.1985 SUBMITTED BY THE PETITIONER.

EXT.R4(7): TRUE COPY OF JUDGMENT DATED 9.10.2000 PASSED BY THIS HON'BLE COURT IN OP NO.9678/1987.

EXT.R4(8): TRUE COPY OF JUDGMENT DATED 3.4.2001 PASSED BY THIS HON'BLE COURT IN OP.NO.3982/2001.

EXT.R4(9): TRUE COPY OF ORDER DATED 9.11.2001 PASSED BY THIS HON'BLE COURT IN W.A.NO.3492/2001.

EXT.R4(10): TRUE COPY OF LETTER DATED 16.2.2001 ISSUED BY THE CHAIRMAN DR.K.MADHAVANKUTTY TO THE DEPUTY DIRECTOR (ADMN.) RASHTRIYA SANSKRIT SANSTHAN, NEW DELHI.

/TRUE COPY/

THOTTATHIL B.RADHAKRISHNAN, J.

O.P.No.39592 OF 2002

Dated this the 4th day of July, 2007

JUDGMENT

The petitioner was employed in an Education Institution, which, later, on account of steps taken by the Union of India, came to be under the control of Rashtriya Sanskrit Sansthan.

2. By judgment dated 26.7.1982 in O.P.No.4229/80, this Court directed the respondents therein to pass appropriate orders in relation to the petitioner on the basis of the observations in that judgment. This led to Writ Appeals being filed before the Division Bench by the Union of India and the other respondents. The Division Bench, by Ext.R4(3) judgment dated 7.4.1988, vacated the directions issued by the learned single Judge and directed that the petitioner's case be considered when a subsequent vacancy arises, if she is duly qualified at that time.

3. In the mean while, the petitioner faced certain proceedings on account of indiscipline resulting in her dismissal from service.

By Ext.P2 judgment dated 27.2.1992 in O.P.No.10078/88, this Court refused to entertain that writ petition against the disciplinary proceedings, on the ground that according to the petitioner, a Special Leave Petition was then pending before the Apex Court, at her instance, against the aforesaid decision of the Division Bench. She was accordingly given liberty to challenge the dismissal, in the event of the Apex Court setting aside the decision of the Division Bench, noted above.

4. It is the admitted fact that the SLP, challenging the judgment in the writ appeals, was dismissed. This means the petitioner's claim for entitlement to be treated as lecturer and to be employed in that status in the Institution, stood concluded against her by the judgment in the writ appeals, affirmed by the Apex Court and all that remained was her entitlement to be considered in terms of the directions of the Division Bench, as and when vacancy arises and if she is duly qualified at that point of time. Though Ext.P2 judgment in O.P.10078/88 made her right to challenge her dismissal from service to be dependant on

the verdict of the Apex Court in the SLP, I do not deem it necessary to decide in these proceedings as to whether the petitioner stood concluded finally by Ext.P2 judgment on that issue. This is because no further action has been taken by her to challenge the dismissal from service.

5. In this writ petition, the petitioner seeks directions to implement the report of a screening committee and to implement the recommendations of a one man committee. According to her, the screening committee found her competent to be employed as a teacher, though not as a lecturer and the one man committee, which, according to her, looked into the allegations against the Principal, had reported that the petitioner's dismissal was essentially a case of abuse of powers and because the Principal had an axe to grind against her.

6. The question whether the one man committee, which looked into the conduct of the Principal, was one appointed by the Government is itself a matter in dispute.

7. But, while it would have been open to the Government and the management to reconsider the disciplinary proceedings if there was any such report, which would have prompted the management and the Government to take such a course of action, I do not deem it appropriate to issue a judicial order reopening such proceedings because the question of her entitlement to continue in service as a lecturer stands concluded against her by the aforesaid decision of the Division Bench, as affirmed by the Apex Court by the dismissal of the SLP.

8. In so far as the decision of the screening committee is concerned, the directions contained in the judgment of the Division Bench, by the dismissal of the SLP, still holds the field which is to the effect that the respondents shall consider the claim of the petitioner in an independent selection, if she is duly qualified, when vacancy arises. But that direction was obviously issued by this Court when the situation of the dismissal of the petitioner was not on record, either because that was a later

event or because there was no material regarding that, on record.

9. In the aforesaid circumstances, while it may be open to the respondents to decide for themselves as to whether the petitioner could be appointed as a teacher or not, I do not deem it appropriate to issue any direction in that regard in exercise of authority under Article 226 of the Constitution of India.

The writ petition fails. The same is accordingly dismissed. No costs.

Sd/-

THOTTATHIL B.RADHAKRISHNAN
Judge

kkb.

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THOTTATHIL B. RADHAKRISHNAN, J

O.P.NO.39592 OF 2002

JUDGMENT

4th JULY, 2007.

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